

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

*In re Inogen, Inc. Shareholder Derivative
Litigation*

Civil Action No. 1:19-cv-01723-MN-JLH

(Consolidated with Case No. 1:19-cv-01968)

This Document Relates to:

ALL ACTIONS

**JOINT STIPULATION AND [PROPOSED] ORDER TO EXTEND TEMPORARY
DEFERRAL OF LITIGATION**

Defendants Scott Wilkinson, Alison K. Bauerlein, Heath Lukatch, Raymond O. Huggenberger, Benjamin M. Anderson-Ray, Scott A. Beardsley, Loren L. McFarland, Heather D. Rider, R. Scott Greer, and Nominal Defendant Inogen, Inc. (“Inogen”) (collectively, “Defendants”), by and through their counsel, and plaintiff Dustin Weller (“Plaintiff”) (Plaintiff and Defendants, together, the “Parties”), by and through his counsel, hereby stipulate to the following:

WHEREAS, on September 13, 2019, Plaintiff filed a putative Verified Stockholder Derivative Complaint for Violations of Federal Securities Laws, Breach of Fiduciary Duty, Waste of Corporate Assets, and Unjust Enrichment (Dkt No. 1, the “Complaint”);

WHEREAS, on May 15, 2020, the Court granted Plaintiff Dustin Weller’s Motion for Consolidation and Appointment of Lead Counsel (Dkt No. 38)¹;

WHEREAS, on July 8, 2020, this Court so-ordered the Parties’ stipulation to temporarily

¹ On May 29, 2020, Plaintiff Shahrokh Soltanipour filed an Objection to the Magistrate Judge’s Order (Dkt No. 40). Despite Plaintiff Soltanipour’s filing of an objection, it is the understanding of the parties to this stipulation that the Magistrate Judge’s Order continues to “govern further proceedings.” Standing Order at ¶ 8.

defer proceedings in this action pending the outcome of the motion to dismiss the related securities class action in the United States District Court for the Central District of California, captioned *In re Inogen, Inc. Securities Litigation*, Master File No. 2:19-cv-01643-FMO-AGR (the “Securities Class Action”)² (Dkt. No 45 (the “Temporary Deferral of Proceedings”));

WHEREAS, on September 27, 2021 the Securities Class Action was dismissed and judgment entered;

WHEREAS, plaintiffs in the Securities Class Action have until October 27, 2021 to potentially appeal the dismissal of the Securities Class Action;

WHEREAS, the Parties have met and conferred in good faith concerning the fact that any appeal may affect the appropriate schedule for further proceedings in this derivative action; and

WHEREFORE, the Parties, through their undersigned counsel, hereby agree, stipulate, and respectfully request that the Court enter an Order as follows:

1. The Temporary Deferral of Proceedings previously stipulated and so-ordered by the Court on July 8, 2020 shall be extended for an additional seven days to allow the Parties to assess the impact of any appeal of the dismissal of the Securities Class Action on this action.
2. The Parties will submit a further stipulation or other filing on or before November 3, 2021 concerning further steps in this action.
3. The existence of this stipulation, the contents thereof, and any negotiations or proceedings in connection therewith shall not be deemed a presumption, concession, finding, or admission by any of the Parties of any fault, liability, or wrongdoing. By entering into this

² In addition to the Securities Class Action, there is a consolidated derivative action pending against Inogen and certain of its officers and directors in the federal district court for the Central District of California captioned *In re Inogen, Inc. Derivative Litigation*, Lead Case No. CV 19-5568-FMO (AGRx).

Stipulation, the parties reserve all of their respective rights, claims, and defenses in this action, and no part of this Stipulation shall be construed as a waiver of any rights, claims or defenses.

IT IS SO STIPULATED.

Dated: October 27, 2021

Respectfully submitted,

COOCH AND TAYLOR, P.A.

By: /s/ Blake A. Bennett

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Lead Counsel for Plaintiffs

Dated: October 27, 2021

**WILSON SONSINI GOODRICH
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IT IS SO ORDERED this ____ day of _____, 2021

The Honorable Maryellen Noreika